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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,704	03/09/2004	Michael Austin	10177-095-999 (CAM #00856	4218
20583	7590	02/22/2008	EXAMINER	
JONES DAY 222 EAST 41ST ST NEW YORK, NY 10017			EDWARDS, LAURA ESTELLE	
			ART UNIT	PAPER NUMBER
			1792	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/797,704	Applicant(s) AUSTIN ET AL.	
	Examiner Laura Edwards	Art Unit 1792	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) 1-21 and 30-35 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20071203</u> . | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 22 and 24 are rejected under 35 U.S.C. 102(e) as being anticipated by Shekalim et al (US 6,971,813).

Shekalim et al provide a system for coating a stent (99) having a tubular portion with an outer surface, wherein the system comprises a coating material source containing a coating material comprising a solvent and a biologically active material comprising an antibiotic or an antiproliferative agent (col. 2, lines 7+); a first roller member (97) having a rotatable surface; and a second roller (92) having a surface, wherein the first roller is situated relative to the coating material source so that the coating material in the coating material source can be transferred to the first roller surface (see Fig. 11B as an example).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 23, 25, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shekalim et al (US 6,971,813) in view of Shibata (JP 11-111423).

Shekalim et al provide for coating a stent (99) as mentioned above. Shekalim et al further allude to the use of a conventional printing [coating] roller arrangement having at least one or more rollers (Fig. 1; col. 1, lines 39 to col. 2, line 6 and col. 10, lines 54-65) for application of coating material to stent followed by heating/drying (col. 5, lines 12-13) of the stent. Shekalim et al are silent concerning the use of a transfer roller arrangement wherein the surface of the second roller is rougher than the surface of the first roller.

Shibata provides a conventional coating apparatus for coating a tubular member (32) comprising a coating material source (501) containing a coating material; a first roller (201) having a surface; and a second roller (301) having a surface, wherein the first roller is situated relative to the coating material source so that the coating material in the coating material source can be transferred to the first roller surface; the first roller and second roller are situated relative to each other so that the first roller can transfer the coating material transferred to the first roller surface to the second roller surface, and the second roller is situated relative to the tubular member so that the second roller can transfer the coating material transferred to the second roller

surface to the outer surface of the tubular member. The surface of the second roller (301) is rougher than the surface of the first roller (201) because the surface of the second roller has protrusions thereon as illustrated in Fig. 4a/b relative to the smooth surface of the first roller (201). The surface of the first roller contacts the surface of the second roller and the surface of the second roller contacts the outer surface of the tubular member. A blade mechanism (500) removes excess coating material from the surface of the first roller (201) so as to control the amount of coating material applied to the tubular member. It would have been obvious to one of ordinary skill in the art to utilize a plural roller arrangement including transfer roller with second rougher roller and metering system as taught by Shibata to coat the stent in the Shekalim et al apparatus in order to control the amount of coating material applied to the stent.

Claims 27, 28, 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shekalim et al (US 6,971,813) in view of in view of Kirk Othmer.

The teachings of Shekalim et al have been mentioned above and while Shekalim et al recognize heating/drying the coating (col. (col. 5, lines 12-13), there is no teaching or suggestion by Shekalim et al of the use of an energy source (i.e., heater or UV source) for converting the coating material applied to the stent. However, it is well known and conventional in the coating art to use a radiation source (i.e., UV light) to dry or cure an applied coating as evidenced by Kirk Othmer (see page 616, under the heading, "Curing With Ultraviolet,...". In light of the teachings of Kirk Othmer, one of ordinary skill in the art would readily appreciate the use of an appropriate drying source including UV light, to dry or cure an applied coating to the stent. It would be within the purview of one skilled in the art to use an appropriate source of energy in

the apparatus of Shekalim et al in accordance with the type of coating material applied to the stent.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura Edwards whose telephone number is (571) 272-1227. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nadine Norton can be reached on (571) 272-1465. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Laura Edwards/
Primary Examiner
Art Unit 1792

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February 18, 2008